

# EXHIBIT 11

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW JERSEY

4 IN RE: JOHNSON & JOHNSON  
5 TALCUM POWDER PRODUCTS  
6 MARKETING SALES  
PRACTICES, AND PRODUCTS  
LIABILITY LITIGATION }  
MDL NO.16-2738 (FLW) (LHG)

11 VIDEO-RECORDED DEPOSITION OF  
12 MARK W. RIGLER, PH.D.

14 February 6, 2019

15 9:14 a.m.

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Suite 200  
Johns Creek, Georgia

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12 (Original Exhibits 1 through 4 have been attached to the original transcript.)

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1 (Reporter disclosure made pursuant to Article 10.B. of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia.)

5 (Identification statement by videographer.)

7 MARK W. RIGLER, PH.D.,  
8 having been first duly sworn, was examined and  
9 testified as follows:

10 EXAMINATION

11 BY MR. CHACHKES:

12 Q. Good morning, Dr. Rigler.

13 A. **Good morning.**

14 Q. How are you?

15 A. **Good; you?**

16 Q. Good.

17 MR. CHACHKES: So just for the record, I  
18 have the same late production objections as  
19 yesterday and the same request to keep the  
20 deposition open. I assume you have the same?  
21 MS. O'DELL: We have the same opposition.  
22 Q. (By Mr. Chachkes) Okay. So what I've  
23 done is I've brought some exhibits from yesterday, so  
24 if you're wondering why there's stamps on them, it's  
25 because they're the stamps from Dr. Longo's

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1 deposition. We are going to use some of the same  
2 exhibits, if that's okay.3 A. **Yes.**4 Q. So what's been marked yesterday -- so all  
5 the stamps are February 5, 2019, Longo. And I'm  
6 going to use those exhibits unless I use a new  
7 exhibit.8 A. **Okay.**9 Q. So I'm just going to hand you what's been  
10 marked yesterday as Exhibit 2. And you recognize  
11 that as the January 15 version of the report that you  
12 cosigned?13 A. **Yes.**14 Q. Okay. And what was your involvement in  
15 drafting this report?16 A. **I reviewed the report, looked over the  
17 data, and made typographical and grammatical  
18 corrections throughout the report.**19 Q. Okay. Do you feel qualified to testify to  
20 every matter that's in that report?

21 MS. O'DELL: Object to the form.

22 THE WITNESS: As I say, I am qualified to  
23 testify on what's in this report now, yes.24 Q. (By Mr. Chachkes) Okay. So if Dr. Longo  
25 were to, for example, not show up at a trial, you

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09:24:47 1 Q. More than 15 hours?

09:24:48 2 A. **I don't know.**

09:24:49 3 Q. So probably over 10 hours, but you don't

09:24:52 4 know beyond that?

09:24:52 5 A. **Correct.**

09:24:53 6 Q. Okay. And were you involved in the

09:24:58 7 creation of the protocols to test J&J talc in this

09:25:03 8 case?

09:25:04 9 A. **In terms of the protocols for the testing,**

09:25:09 10 **we used standard methods throughout for the analysis.**

09:25:14 11 **Dr. Longo essentially put together the way the test**

09:25:18 12 **or the study was going to be done, but we, you know,**

09:25:21 13 **overall use the standard methods throughout.**

09:25:23 14 Q. When you say Dr. Longo put together the

09:25:26 15 way -- you said the way the studies would be

09:25:28 16 conducted?

09:25:29 17 A. **Yes.**

09:25:29 18 Q. Was that something in writing?

09:25:31 19 A. **Well, he directs the study on a daily**

09:25:35 20 **basis.**

09:25:35 21 Q. The question is was it in writing?

09:25:38 22 A. **Was it in writing? I don't know. You'd**

09:25:42 23 **have to ask Dr. Longo.**

09:25:43 24 Q. Okay. So you're unaware of whether he

09:25:46 25 communicated with the analysts about protocol in

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09:26:49 1 Q. Do you consider yourself an expert in TEM

09:26:56 2 analysis?

09:26:56 3 A. **Well, the term expert, I think, you**

09:27:00 4 **probably have to defer that to the court. I mean, I**

09:27:04 5 **have more than the layperson's knowledge so -- but I**

09:27:08 6 **would defer that to the court.**

09:27:10 7 Q. Okay. Have you --

09:27:13 8 A. **I mean, I've been qualified as an expert**

09:27:16 9 **before, but in this case...**

09:27:19 10 Q. When is the first time you ever used a

09:27:21 11 TEM?

09:27:21 12 A. **The first time I used a TEM? Let's see.**

09:27:24 13 **That would probably have been sometime in the early**

09:27:29 14 **'80s, I would say, yeah.**

09:27:31 15 Q. How many times have you used an SAED to

09:27:35 16 characterize a particle?

09:27:36 17 A. **SAED?**

09:27:37 18 Q. SAED.

09:27:39 19 A. **I don't know if I could count the number**

09:27:40 20 **of times.**

09:27:41 21 Q. How many times have you used EDXA to

09:27:45 22 characterize a particle?

09:27:47 23 A. **Same answer on that. Yes.**

09:27:48 24 Q. What about PLM, do you consider yourself

09:27:53 25 an expert on PLM?

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20

09:25:48 1 writing?

09:25:49 2 A. **Well, the --**

09:25:50 3 MS. O'DELL: Object to form.

09:25:51 4 THE WITNESS: -- laboratory has protocol

09:25:52 5 for the way that talc is analyzed and

09:25:59 6 asbestos-bearing products are analyzed, so we

09:26:01 7 have written protocol for those things.

09:26:03 8 MR. CHACHKES: Okay. And I think I've

09:26:06 9 requested that those be produced. I don't think

09:26:07 10 those have been produced.

09:26:09 11 MS. O'DELL: I think it's reflected in his

09:26:11 12 report, but we will consider your request.

09:26:13 13 Q. (By Mr. Chachkes) Okay. Do you

09:26:21 14 communicate with the analysts by email at all?

09:26:23 15 A. **Communicate with the analysts by email?**

09:26:26 16 **No. I can go speak to them.**

09:26:29 17 Q. Okay. There's no sort of like weekly

09:26:33 18 email or monthly email where you summarize what's

09:26:36 19 going on?

09:26:37 20 A. **No.**

09:26:37 21 Q. Did you ever change an analyst's

09:26:42 22 determinations where an analyst came up with some

09:26:44 23 conclusion and you said maybe that's not right, go

09:26:46 24 back?

09:26:47 25 A. **No.**

09:27:54 1 A. **I am not a PLM microscopist.**

09:27:56 2 Q. Okay. What was your contribution to the

09:27:58 3 PLM aspects of the January 15 report?

09:28:03 4 A. **Well, as far as PLM contributions, again,**

09:28:07 5 **I'm not the PLM analyst, so we just wanted to be sure**

09:28:13 6 **that the quality program was being followed in the**

09:28:18 7 **laboratory.**

09:28:18 8 Q. When you say that a quality program was

09:28:21 9 being followed, is that the same contribution you

09:28:31 10 made to the other portions of the report?

09:28:33 11 MS. O'DELL: Object to form.

09:28:34 12 THE WITNESS: Yes. Well, I would say yes

09:28:35 13 to that. Yes.

09:28:36 14 Q. (By Mr. Chachkes) Okay. Did you ever

09:28:43 15 personally test a talc sample for asbestos

09:28:45 16 contamination?

09:28:46 17 A. **Did I ever personally test them?**

09:28:48 18 Q. Yes.

09:28:48 19 A. **Not that I can recall as I sit here.**

09:28:50 20 Q. Okay.

09:28:55 21 A. **We've done tissue testing for talc and**

09:29:00 22 **asbestos in tissue, yes.**

09:29:01 23 Q. But just testing talcum powder that came

09:29:05 24 out of a bottle, you've never done that?

09:29:07 25 A. **I've not personally tested that.**

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14:04:17	<b>1</b>	Q. Let me --	14:06:21	<b>1</b>	demonstrative?
14:04:22	<b>2</b>	A. I mean, the rate is based on the number of	14:06:22	<b>2</b>	A. Yep.
14:04:24	<b>3</b>	structures that they counted. Now, they may have	14:06:22	<b>3</b>	Q. And analyst number 3, A8-E2, that analyst
14:04:26	<b>4</b>	been a fiber or a bundle, but it's the total number	14:06:27	<b>4</b>	detected a fiber?
14:04:29	<b>5</b>	of structures they counted. Yep.	14:06:28	<b>5</b>	A. Yes.
14:04:31	<b>6</b>	MR. CHACHKES: Let's mark as the next	14:06:29	<b>6</b>	Q. Okay. And then analyst number 4, A8-E2,
14:04:32	<b>7</b>	exhibit, what are we on, 4?	14:06:34	<b>7</b>	that analyst detected a bundle?
14:04:35	<b>8</b>	(Defendants' Exhibit 4 was marked for	14:06:36	<b>8</b>	A. Yes. Yep.
14:04:52	<b>9</b>	identification.)	14:06:37	<b>9</b>	MS. O'DELL: Did you say A8-2 twice?
14:04:52	<b>10</b>	Q. (By Mr. Chachkes) So what we have marked	14:06:41	<b>10</b>	THE WITNESS: This one.
14:04:55	<b>11</b>	as Rigler 4 is a demonstrative we worked up so that	14:06:43	<b>11</b>	MR. CHACHKES: A8-E2.
14:04:57	<b>12</b>	we can see -- compare the analysts' work against each	14:06:43	<b>12</b>	THE WITNESS: Yeah. Is that grid square?
14:04:59	<b>13</b>	other.	14:06:44	<b>13</b>	MS. O'DELL: Yeah.
14:05:00	<b>14</b>	Can you just confirm that -- let's look,	14:06:44	<b>14</b>	THE WITNESS: Yeah.
14:05:03	<b>15</b>	for example, at analyst 1, what they found for grid	14:06:45	<b>15</b>	MS. O'DELL: Got it. And then for --
14:05:10	<b>16</b>	opening A8-E2?	14:06:49	<b>16</b>	Q. (By Mr. Chachkes) Okay. So what we've
14:05:16	<b>17</b>	<b>A. Which analysis is this? Which sample is</b>	14:06:51	<b>17</b>	done is we've summarized these grid openings in this
14:05:17	<b>18</b>	<b>this?</b>	14:06:55	<b>18</b>	demonstrative in that way --
14:05:18	<b>19</b>	Q. So this is -- you've gone to the appendix,	14:06:56	<b>19</b>	<b>A. Right.</b>
14:05:21	<b>20</b>	right, of Rigler 3.	14:06:58	<b>20</b>	Q. -- do you follow me so far?
14:05:26	<b>21</b>	<b>A. What? Where are we --</b>	14:06:58	<b>21</b>	<b>A. Yes.</b>
14:05:29	<b>22</b>	Q. So Rigler 3 is the coefficient of	14:07:00	<b>22</b>	Q. And your analysts are trained to
14:05:32	<b>23</b>	variation study?	14:07:00	<b>23</b>	distinguish between a fiber and a bundle; right?
14:05:33	<b>24</b>	<b>A. Okay.</b>	14:07:02	<b>24</b>	<b>A. Yes.</b>
14:05:33	<b>25</b>	Q. And if you go into -- there are sheets for	14:07:02	<b>25</b>	Q. And you ran this experiment to detect how
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14:05:38	<b>1</b>	different analysts; right?	14:07:06	<b>1</b>	good your analysts were at identifying the same
14:05:39	<b>2</b>	<b>A. Yeah, these are the count sheets, right.</b>	14:07:09	<b>2</b>	thing?
14:05:41	<b>3</b>	Q. Right. So if you go to the first analyst	14:07:09	<b>3</b>	MS. O'DELL: Object to the form.
14:05:48	<b>4</b>	and you go to A8-E2 --	14:07:10	<b>4</b>	Q. (By Mr. Chachkes) Is that a yes?
14:05:51	<b>5</b>	<b>A. Okay.</b>	14:07:11	<b>5</b>	<b>A. That would be yes.</b>
14:05:51	<b>6</b>	Q. -- you see that the structure identified	14:07:11	<b>6</b>	Q. But out of the 11 grid openings, your
14:05:53	<b>7</b>	was a bundle --	14:07:14	<b>7</b>	analysts only came to consensus on the type of
14:05:54	<b>8</b>	<b>A. Okay.</b>	14:07:16	<b>8</b>	structure they found only once?
14:05:54	<b>9</b>	Q. -- right?	14:07:18	<b>9</b>	MS. O'DELL: Object to the form.
14:05:55	<b>10</b>	<b>A. Yes.</b>	14:07:19	<b>10</b>	THE WITNESS: Every time they came to the
14:05:56	<b>11</b>	Q. Okay. And then in my demonstrative you	14:07:20	<b>11</b>	consensus that it was tremolite.
14:05:58	<b>12</b>	see that's a bundle; right?	14:07:22	<b>12</b>	Q. (By Mr. Chachkes) This is not the
14:06:00	<b>13</b>	<b>A. Right.</b>	14:07:23	<b>13</b>	question.
14:06:00	<b>14</b>	Q. And then you go to analyst number 2 -- is	14:07:23	<b>14</b>	<b>A. But that is the answer. This is what</b>
14:06:06	<b>15</b>	that the second page?	14:07:25	<b>15</b>	<b>we're concerned about here, is it asbestos.</b>
14:06:07	<b>16</b>	<b>A. Yes.</b>	14:07:27	<b>16</b>	Q. The question before you is: Out of 11
14:06:07	<b>17</b>	Q. Okay. And it says in the upper left-hand	14:07:30	<b>17</b>	grid openings your analysts only came to a consensus
14:06:09	<b>18</b>	corner analyst 2?	14:07:33	<b>18</b>	on the type of structure they found only once?
14:06:10	<b>19</b>	<b>A. Yes.</b>	14:07:36	<b>19</b>	<b>A. What's that? Out of 11 grid openings?</b>
14:06:10	<b>20</b>	Q. Okay. That for A8-E2 that analyst	14:07:39	<b>20</b>	Q. Right.
14:06:16	<b>21</b>	identified a fiber?	14:07:40	<b>21</b>	<b>A. No.</b>
14:06:17	<b>22</b>	<b>A. Okay.</b>	14:07:40	<b>22</b>	Q. Okay. Look at the demonstrative.
14:06:17	<b>23</b>	Q. Is that correct?	14:07:43	<b>23</b>	<b>A. Okay.</b>
14:06:18	<b>24</b>	<b>A. Uh-huh.</b>	14:07:43	<b>24</b>	Q. For A8-E2 your analysts did not find the
14:06:19	<b>25</b>	Q. Okay. And that's reflected in the	14:07:46	<b>25</b>	same structure; right? Two found bundle, two found
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14:07:52 1 fiber?

14:07:52 2 A. Uh-huh.

14:07:53 3 Q. For A8-E4 they all agree it's a fiber?

14:07:57 4 A. Uh-huh.

14:07:57 5 Q. For A8-E5 they did not agree whether it

14:08:00 6 was a bundle or fiber.

14:08:02 7 A. Okay.

14:08:03 8 MS. O'DELL: And feel free to check if you

14:08:05 9 need to check the data. It's in the

14:08:08 10 demonstrative.

14:08:08 11 Q. (By Mr. Chachkes) Yeah. I mean, if you

14:08:09 12 think we're putting a fraudulent --

13 A. No --

14 Q. -- in front of you --

14:08:13 15 A. -- no.

14:08:13 16 MS. O'DELL: I think mistakes can happen.

17 THE WITNESS: I'm sure they can.

14:08:15 18 MS. O'DELL: I think probably the others

14:08:16 19 happen, too, but I'm not suggesting that in this

14:08:18 20 situation.

14:08:18 21 Q. (By Mr. Chachkes) So you can see for the

14:08:20 22 11 grid openings on the demonstrative we put before

14:08:23 23 you, there was only one instance where the analysts

14:08:27 24 agreed on the fiber structure.

14:08:30 25 A. Okay.

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14:08:31 1 Q. Right?

14:08:32 2 A. Okay.

14:08:32 3 Q. And did you -- did you determine an error

14:08:39 4 rate for your analysts' ability to determine

14:08:42 5 morphology?

14:08:43 6 A. No.

14:08:44 7 Q. If you did based on this, it would be a

14:08:47 8 pretty high error rate, wouldn't it?

14:08:49 9 MS. O'DELL: Object to the form.

14:08:50 10 THE WITNESS: Well, it's not an error as

14:08:51 11 to what the material is, is it? It's all

14:08:53 12 tremolite. It's all tremolite asbestos. It all

14:08:56 13 meets the definition for tremolite asbestos,

14:08:57 14 bundle, fiber.

14:08:59 15 Q. (By Mr. Chachkes) I'll ask the question

14:09:00 16 again.

14:09:00 17 A. Okay.

14:09:00 18 Q. If you were to determine an error rate for

14:09:03 19 determining the morphology of what the analysts in

14:09:06 20 the coefficient of variation were looking at, it

14:09:09 21 would be a very high error rate, wouldn't it?

14:09:11 22 MS. O'DELL: Object to the form.

14:09:12 23 THE WITNESS: No. No, it wouldn't.

14:09:12 24 Q. (By Mr. Chachkes) Even though they only

14:09:13 25 agreed once out of 11 times?

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14:09:15 1 MS. O'DELL: Object to the form.

14:09:16 2 THE WITNESS: No.

14:09:16 3 Q. (By Mr. Chachkes) Why?

14:09:17 4 A. It's not.

14:09:18 5 Q. Why?

14:09:18 6 A. Well, the max I can see here is it might

14:09:23 7 be -- it might be maybe 50 percent, maybe, if that's

14:09:28 8 what it is.

14:09:28 9 Q. Okay.

14:09:29 10 A. And I don't agree with it, okay, because

14:09:32 11 the objective here is is it asbestos? Is it

14:09:35 12 asbestos? The answer is yes.

14:09:37 13 Q. So a 50 percent error rate in your mind is

14:09:39 14 not high?

14:09:40 15 MS. O'DELL: Object to the form.

14:09:41 16 THE WITNESS: No, this is not --

14:09:43 17 MS. O'DELL: Give me a moment.

14:09:45 18 Object to the form.

14:09:46 19 Go ahead.

14:09:46 20 THE WITNESS: I mean, again, the objective

14:09:48 21 here is to determine if this is asbestos, is

14:09:51 22 this asbestos? And the answer to that is

14:09:54 23 yes. You're going to have some variation based

14:09:56 24 on what they see in the microscope, all right,

14:10:01 25 and that is totally acceptable.

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14:10:03 1 Q. (By Mr. Chachkes) Okay. When you say

14:10:05 2 totally acceptable, what do you mean by that?

14:10:06 3 A. Well, it's acceptable based on what the

14:10:13 4 asbestos is, according to the definition. All

14:10:16 5 right. Fiber, bundle, .5 or greater, 5-to-1 aspect

14:10:22 6 ratio. Every one of these fits that.

14:10:24 7 Q. So -- well, that's not quite correct;

14:10:28 8 right? A8-G4, three analysts found no detectable

14:10:34 9 asbestos and only one found asbestos; right?

14:10:36 10 A. That happens.

14:10:36 11 Q. Okay.

14:10:36 12 A. That can happen.

14:10:37 13 Q. And then A8-G5, three analysts found no

14:10:41 14 asbestos and one identified a bundle?

14:10:43 15 A. Again, that can happen.

14:10:45 16 Q. And you testified before that there's a

14:10:49 17 right answer and a wrong answer as to whether

14:10:52 18 something's a fiber or a bundle; right?

14:10:54 19 A. Yes.

14:10:54 20 Q. Do you know for grid opening A8-E4 which

14:10:59 21 analyst got it wrong and which analyst got it right?

14:11:01 22 MS. O'DELL: Object to the form.

14:11:02 23 THE WITNESS: They both got it right.

14:11:04 24 They all got it right.

14:11:05 25 Q. (By Mr. Chachkes) Okay. And so if

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14:11:08 1 there's objectively a right answer to whether it's a  
 14:11:11 2 fiber or bundle, how can something be both a fiber  
 14:11:14 3 and a bundle?  
**14:11:15 4 A. As I say, the analyst, their job is to**  
**14:11:22 5 figure out whether it meets the definition, all**  
**14:11:24 6 right? Fiber or bundle, it meets the specification**  
**14:11:28 7 for whether it is asbestos, asbestiform asbestos.**  
 14:11:33 8 Q. Okay. Putting --  
**14:11:34 9 A. That's what we're concerned about here.**  
 14:11:36 10 Q. Putting aside whether there's -- what they  
 14:11:38 11 identified as asbestiform, I'm just talking about the  
 14:11:41 12 morphology.  
**14:11:41 13 A. Sure.**  
 14:11:42 14 Q. For A8-E2, two analysts must have gotten  
 14:11:46 15 it wrong and two must have gotten it right.  
 14:11:48 16 MS. O'DELL: Object to the form.  
 14:11:49 17 THE WITNESS: No. They all got it right.  
 14:11:50 18 Q. (By Mr. Chachkes) Okay. So you don't  
 14:11:50 19 care whether an analyst correctly identifies  
 14:11:54 20 something as a bundle or fiber?  
 14:11:56 21 MS. O'DELL: Object to the form.  
 14:11:56 22 MS. PARFITT: Misstates his testimony.  
 14:11:59 23 THE WITNESS: What I've said is it meets  
 14:12:00 24 the definition. That's what is of concern to  
 14:12:03 25 me. That's the most important part.

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14:12:04 1 Q. (By Mr. Chachkes) The question is do you  
 14:12:06 2 care whether one of your analysts misidentifies a  
 14:12:09 3 bundle as a fiber or a fiber as a bundle?  
 14:12:11 4 MS. O'DELL: Object to the form.  
 14:12:13 5 Q. (By Mr. Chachkes) Do you care?  
 14:12:14 6 MS. O'DELL: Object to the form.  
 14:12:15 7 THE WITNESS: I care if they identify it  
 14:12:19 8 properly according to the regulations, and in  
 14:12:22 9 all cases they have.  
 14:12:23 10 Q. (By Mr. Chachkes) I'll ask the same  
 14:12:24 11 question again.  
**14:12:24 12 A. And I'll answer it the same way every**  
**14:12:26 13 time.**  
 14:12:26 14 Q. We'll add this to the list of things we're  
 14:12:28 15 going to get the magistrate to --  
**14:12:30 16 A. Fine.**  
 14:12:30 17 Q. -- answer.  
 14:12:30 18 A. **That's fine.**  
 14:12:30 19 Q. Do you care --  
 14:12:31 20 A. **I'm going to answer it the same way, so we**  
 14:12:33 21 **can move on.**  
 14:12:34 22 Q. I want a clear record. If you don't want  
 14:12:36 23 to answer -- do you care --  
 14:12:37 24 A. **I've answered already.**  
 14:12:37 25 MS. O'DELL: Excuse me. He's answered

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14:12:39 1 your question.  
 14:12:39 2 THE WITNESS: Numerous times.  
 14:12:41 3 MS. O'DELL: Excuse me. Three or four  
 14:12:42 4 times. If you want to waste your time, but  
 14:12:45 5 don't badger the witness.  
 14:12:46 6 MR. CHACHKES: I'm not going to badger the  
 7 witness --  
 14:12:50 8 MS. O'DELL: You are badgering the  
 14:12:50 9 witness.  
**14:12:51 10 MR. CHACHKES: -- clear answer.**  
 14:12:50 11 MS. O'DELL: He's answered your question  
 14:12:51 12 very clearly.  
 14:12:52 13 MR. CHACHKES: I'm going to ask the same  
 14:12:53 14 question again. You can tell me I'm not allowed  
 14:12:56 15 to, and I'll move on.  
**14:12:57 16 MS. O'DELL: I'm telling you that the**  
**14:12:58 17 rules require that you not badger the witness.**  
**14:12:59 18 That's what I'm stating to you.**  
 14:13:01 19 MR. CHACHKES: I'm -- level voice. It's a  
 14:13:02 20 calm question. It's a serious question. So.  
 14:13:04 21 MS. O'DELL: That doesn't mean you're not  
 14:13:08 22 badgering the witness, as you are well aware.  
 14:13:09 23 MR. CHACHKES: I believe I'm entitled to a  
 14:13:11 24 clear answer to a clear question.  
 14:13:13 25 MS. O'DELL: You're not entitled to the

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14:13:13 1 answer that you want. You're entitled to an  
 14:13:13 2 answer, and he's answered your question.  
**14:13:14 3 MR. CHACHKES: Let's maybe -- I don't**  
**14:13:15 4 think this colloquy is productive. I'm going to**  
**14:13:19 5 ask the same question again. If you want to say**  
**14:13:19 6 don't ask it, you can order me not to ask it.**  
**14:13:22 7 I'm going to ask it again.**  
**14:13:23 8 Q. (By Mr. Chachkes) Do you care whether**  
**14:13:24 9 your analysts misidentify a bundle as a fiber or a**  
**14:13:28 10 fiber as a bundle? Just the morphology I'm talking**  
**14:13:30 11 about.**  
**14:13:31 12 A. Asked and answered.**  
 14:13:32 13 MS. O'DELL: Excuse me. Object to the  
 14:13:33 14 form.  
 14:13:34 15 Q. (By Mr. Chachkes) So you believe you've  
 14:13:37 16 already answered that?  
 14:13:37 17 A. Yes.  
 14:13:38 18 Q. Okay. And if I were to say you don't care  
 14:13:41 19 about whether an analyst is misidentifying a  
 14:13:44 20 morphology, would I be wrong or right?  
 14:13:46 21 MS. O'DELL: You would be misstating his  
 14:13:48 22 testimony. Object to the question.  
 14:13:49 23 Q. (By Mr. Chachkes) If I said you do care  
 14:13:52 24 that an analyst misidentified the morphology of  
 14:13:56 25 asbestos, would I be wrong or right?

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14:25:21 1 A. **Correct.**  
 14:25:21 2 Q. Are there two kinds of tremolite,  
 14:25:34 3 asbestosiform and nonasbestiform?  
 14:25:36 4 A. **Yes.**  
 14:25:36 5 Q. Just identifying something as tremolite  
 14:25:41 6 doesn't mean it's asbestosiform?  
 14:25:43 7 MS. O'DELL: Object to the form.  
 14:25:44 8 THE WITNESS: It can be massive tremolite.  
 14:25:47 9 You know, if it's fibrous and it meets the  
 14:25:49 10 definition, then it's going to be asbestosiform.  
 14:25:51 11 I mean, according to the definition.  
 14:25:53 12 Q. (By Mr. Chachkes) The question is just  
 14:25:54 13 identifying something as tremolite does not mean it's  
 14:25:56 14 asbestosiform; is that correct?  
 14:25:57 15 MS. O'DELL: Object to the form.  
 14:25:58 16 THE WITNESS: Once again, you would have  
 14:26:02 17 to look at the form.  
 14:26:03 18 Q. (By Mr. Chachkes) To determine whether  
 14:26:04 19 it's asbestosiform?  
 14:26:05 20 A. **Yes.**  
 14:26:06 21 MS. O'DELL: Object to the form.  
 14:26:07 22 Q. (By Mr. Chachkes) Just identifying  
 14:26:08 23 something as anthophyllite doesn't mean it's  
 14:26:10 24 asbestosiform; correct?  
 14:26:11 25 MS. O'DELL: Object to the form.

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14:26:12 1 THE WITNESS: Once again, if it meets the  
 14:26:15 2 definition than it would be.  
 14:26:17 3 Q. (By Mr. Chachkes) Okay. And if it  
 14:26:19 4 doesn't meet the definition, it wouldn't be?  
 14:26:21 5 MS. O'DELL: Object to the form.  
 14:26:22 6 THE WITNESS: Well, it's still  
 14:26:23 7 anthophyllite. It may be, you know, below the  
 14:26:26 8 aspect ratio again. Causes the same health  
 14:26:30 9 effects.  
 14:26:30 10 Q. (By Mr. Chachkes) What's a cleavage  
 14:26:36 11 fragment again?  
 14:26:36 12 MS. O'DELL: Asked and answered.  
 14:26:38 13 THE WITNESS: Yeah. Talked about that  
 14:26:39 14 already.  
 14:26:39 15 Q. (By Mr. Chachkes) So what is it?  
 14:26:41 16 A. **It is a -- it's a form that would not have**  
 14:26:45 17 **parallel sides. Wouldn't have the aspect ratio.**  
 14:26:49 18 **It's going to be an odd shape.**  
 14:26:50 19 Q. Is something that had nonparallel sides  
 14:26:55 20 with an aspect ratio of 6-to-1, would that be a  
 14:26:59 21 cleavage fragment?  
 14:27:00 22 MS. O'DELL: Object to the form.  
 14:27:01 23 THE WITNESS: Most likely.  
 14:27:02 24 Q. (By Mr. Chachkes) Do you agree with the  
 14:27:03 25 statement: Crushing of nonasbestiform amphibole can

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14:27:06 1 lead to elongate fragments that conform to the  
 14:27:09 2 definition of an asbestosiform fiber?  
 14:27:11 3 MS. O'DELL: Object to form.  
 14:27:12 4 THE WITNESS: Yes.  
 14:27:12 5 Q. (By Mr. Chachkes) Do you agree with this  
 14:27:13 6 statement: Crushed nonasbestiform amphiboles rarely  
 14:27:17 7 have aspect ratios exceeding 30-to-1?  
 14:27:21 8 A. **I mean, that is -- that's been stated, but**  
 14:27:29 9 **it's as rarely -- so it's not 100 percent. So you**  
 14:27:35 10 **can have some.**  
 14:27:35 11 Q. But you agree with the statement?  
 14:27:38 12 MS. O'DELL: Object to the form. He just  
 14:27:40 13 said what he thought about the statement.  
 14:27:41 14 THE WITNESS: Yeah.  
 14:27:41 15 Q. (By Mr. Chachkes) It's yes or no. Do  
 14:27:43 16 crushed -- do you agree with this statement, yes or  
 14:27:45 17 no: Crushed nonasbestiform amphiboles rarely have  
 14:27:48 18 aspect ratios exceeding 30-to-1?  
 14:27:50 19 MS. O'DELL: You may answer it any way  
 14:27:52 20 you'd like, Doctor. You're not restricted.  
 14:27:54 21 THE WITNESS: I mean, I've already  
 14:27:55 22 answered part of the question, and I would say  
 14:27:56 23 yes, you know.  
 14:28:00 24 MS. O'DELL: We have been going about an  
 14:28:01 25 hour. Why don't we take a quick break.

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14:28:04 1 MR. CHACHKES: Sure.  
 14:28:43 2 (Recess from 2:28 p.m. to 2:52 p.m.)  
 14:28:43 3 (Defendants' Exhibit 1 was marked for  
 14:52:54 4 identification.)  
 14:52:54 5 Q. (By Mr. Chachkes) Okay. Dr. Rigler, this  
 14:53:11 6 has already been marked as Rigler Exhibit 1. Can you  
 14:53:15 7 confirm that those are MAS invoices?  
 14:53:17 8 A. **Let's see. It has MAS on the letterhead.**  
 14:53:26 9 **They look like they are, yep.**  
 14:53:29 10 Q. Okay. It looks like the first page is an  
 14:53:31 11 April invoice. Am I right there?  
 14:53:33 12 A. **April 8 to April 11, 2018.**  
 14:53:38 13 Q. Okay. And it looks like the second one on  
 14:53:42 14 page 2 is a March invoice?  
 14:53:44 15 A. **Let's see. Yes.**  
 14:53:46 16 Q. And then page 3 looks like a single block  
 14:53:50 17 billing for, I'm guessing, the report, the  
 14:53:56 18 November 15 report?  
 14:53:56 19 A. **I don't know. I have no idea. First time**  
 14:53:59 20 **I've seen these.**  
 14:53:59 21 Q. Okay.  
 14:54:00 22 A. **Yeah, so I don't know.**  
 14:54:01 23 Q. Okay. So you wouldn't know whether  
 14:54:03 24 there's other billing --  
 14:54:04 25 A. **I have no idea.**

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## 1 C E R T I F I C A T E

2 STATE OF GEORGIA:

3 COUNTY OF HALL:

6 I hereby certify that the foregoing  
 7 transcript was taken down, as stated in the  
 8 caption, and the questions and answers thereto  
 9 were reduced to typewriting under my direction;  
 10 that the foregoing pages 1 through 228 represent  
 11 a true, complete, and correct transcript of the  
 12 evidence given upon said hearing, and I further  
 13 certify that I am not of kin or counsel to the  
 14 parties in the case; am not in the regular  
 15 employ of counsel for any of said parties; nor  
 16 am I in anywise interested in the result of said  
 17 case.

18 This, the 8th day of February, 2019.

21 FRANCES BUONO, B-791  
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2 I do hereby certify that I have read all  
 3 questions propounded to me and all answers given by  
 4 me on the 6th day of February, 2019, taken before  
 Frances Buono, and that:

- 5  1) There are no changes noted.  
 2) The following changes are noted:

6 Pursuant to Rule 30(e) of the Federal Rules of  
 7 Civil Procedure and/or the Official Code of Georgia  
 8 Annotated 9-11-30(e), both of which read in part:  
 9 Any changes in form or substance which you desire to  
 10 make shall be entered upon the deposition...with a  
 11 statement of the reasons given...for making them.  
 12 Accordingly, to assist you in effecting corrections,  
 13 please use the form below:

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14 If supplemental or additional pages are necessary,  
 15 please furnish same in typewriting annexed to this  
 16 deposition.

17 MARK W. RIGLER, PH.D.

18 Sworn to and subscribed before me,  
 19 This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

20 Notary Public  
 21 My commission expires: \_\_\_\_\_

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